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Title 13 – Business Credit and Assistance

Chapter I – Small Business Administration

Part 115 – Surety Bond Guarantee

Subpart A – Provisions for All Surety Bond Guarantees

Authority: 5 U.S.C. app 3; 15 U.S.C. 636i, 687b, 687c, 694a, and 694b note.

Source: 61 FR 3271, Jan. 31, 1996, unless otherwise noted.

Editorial Note: Nomenclature changes to part 115 appear at 72 FR 50038, Aug. 30, 2007.

§ 115.13 Eligibility of Principal.

- (a) **General eligibility.** In order to be eligible for a bond guaranteed by SBA, the Principal must comply with the following requirements:
- (1) **Size.** Together with its Affiliates, it must qualify as a small business under part 121 of this title.
 - (2) **Character.** It must possess good character and reputation. A Principal meets this standard if each owner of 20% or more of its equity, and each of its officers, directors, or general partners, possesses good character and reputation. A Person's good character and reputation is presumed absent when:
 - (i) The Person is under indictment for, or has been convicted of a felony, or a final civil judgment has been entered stating that such Person has committed a breach of trust or has violated a law or regulation protecting the integrity of business transactions or business relationships; or
 - (ii) A regulatory authority has revoked, canceled, or suspended a license of the Person which is necessary to perform the Contract; or
 - (iii) The Person has obtained a bond guarantee by fraud or material misrepresentation (as described in § 115.19(b)), or has failed to keep the Surety informed of unbonded contracts or of a contract bonded by another Surety, as required by a bonding line commitment under § 115.33.
 - (3) **Need for bond.** It must certify that a bond is expressly required by the bid solicitation or the original Contract in order to bid on the Contract or to serve as a prime contractor or subcontractor.
 - (4) **Availability of bond.** It must certify that a bond is not obtainable on reasonable terms and conditions without SBA's guarantee.
 - (5) **Partial subcontract.** It must certify the percentage of work under the Contract to be subcontracted. SBA will not guarantee bonds for Principals who are primarily brokers. In addition, the Principal must retain full responsibility for the oversight and management of the Contract, including any work performed by any subcontractor, and may not subcontract the full scope of the statement of work.
 - (6) **Debarment.** It must certify that the Principal is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transactions with any Federal department or agency, under governmentwide debarment and suspension rules.
 - (7) **No loss of eligibility.** Neither the Principal nor any of its Affiliates is ineligible for an SBA-guaranteed bond under § 115.14.

- (b) **Conflict of interest.** A Principal is not eligible for an SBA-guaranteed bond issued by a particular Surety if that Surety, or an Affiliate of that Surety, or a close relative or member of the household of that Surety or Affiliate owns, directly or indirectly, 10% or more of the Principal. This prohibition also applies to ownership interests in any of the Principal's Affiliates.

[61 FR 3271, Jan. 31, 1996, as amended at 79 FR 2087, Jan. 13, 2014; 81 FR 23565, Apr. 22, 2016]